



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE REVISED BILL ANALYSIS

Date Amended:	06/07/00	Bill No:	AB 1822
Tax:	Business Taxes and Property Taxes	Author:	Wayne
Board Position:		Related Bills:	AB 505 (Wright) AB 2439 (Wright)

BILL SUMMARY:

This bill makes numerous changes to the Administrative Procedures Act, as specified.

ANALYSIS:

Current Law:

Current law establishes detailed procedural requirements in the Administrative Procedure Act (APA) that must be followed by state agencies in the adoption of regulations. Under current law, interested persons may petition a state agency requesting the adoption, amendment, or repeal of a regulation. Agencies must notify the petitioner in writing either to deny the request or to schedule the matter for public comment, and submit their decision to the Office of Administrative Law (OAL) as specified. A denied petitioner may request reconsideration of any denied petition.

The procedures also provide for public participation in agency rulemaking by requiring that the agency notify by mail every person who has filed a request for notice of regulatory actions, and also a representative number of businesses affected. Also, if a public hearing is not held, that agency shall afford any interested person or representative the opportunity to present written statements about the regulation. A public hearing must be held if requested in writing within a specified time period.

In addition to these specified procedural requirements, all proposed adoptions and amendments of regulations must meet six substantive standards. The OAL is charged with the orderly review of adopted regulations in order to reduce the number of administrative regulations and improve the quality of those regulations that are adopted. In its review, the OAL determines if the regulations comply with all the standards prescribed by law, which are: necessity, authority, clarity, consistency, reference, and nonduplication.

Proposed Law:

This bill would make numerous changes to the Administrative Procedures Act with respect to the state rulemaking process. Specifically, this bill would:

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Allow the use of electronic communications to deliver and publish rulemaking documents, but provide that electronic communication may not be the exclusive means of publication or distribution;

Authorize state agencies to consult with interested parties prior to commencing a regulatory action;

Modify provisions relating to both the rulemaking procedures and to the content and availability of the rulemaking file;

Create an exception, subject to specified conditions, to the rulemaking requirements for regulations that establish criteria for state agency staff in performing examinations, inspections, investigations or audits;

Modify provisions relating to the requirement that a state agency demonstrate the necessity of a proposed regulation;

Require 30 working days before an emergency regulation may be made permanent.

Expand judicial review to include an order of repeal of a regulation as well as the establishment of the regulation, as specified;

Require an agency to assess the potential for adverse economic impact on California businesses and individuals of the proposed repeal of a regulation.

COMMENTS:

1. **Sponsor and Purpose of the Bill:** This bill is sponsored by the California Law Revision Commission in an effort to incorporate into the regulatory process the use of e-mail and the Internet, and to add clarity.
2. **The Board staff currently offer non-binding opinions, which are not subject to the provisions of the APA, to any requesting party.** This process allows Board staff to provide non-binding opinions without extensive administrative delays so that taxpayers, their advisors, and county officials can make business decisions with an understanding of the tax consequences. Such opinions will continue to be exempt from the provisions of the APA.
3. **This bill may make it more difficult to repeal a regulation.** In order to repeal a regulation, the Board would first be required to assess any adverse economic impact on individuals and corporations. This would prolong the regulatory process.
4. **Related Legislation:** Assembly Bill 2439 (Wright) also contains more extensive modifications to the Administrative Procedures Act, but was held in the Assembly Appropriations Committee. Assembly Bill 505 (Wright), as amended on June 20, contains provisions similar to AB 2439.

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COST ESTIMATE:

Any costs associated with this bill would be absorbable.

REVENUE ESTIMATE:

This bill would not impact state revenues.

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